

United States District Court  
Southern District of New York

X

Transfield ER Cape Limited

Plaintiff,

07 CV 4528 (MGC)

ECF CASE

-against-

Fuchuen Dihai Shipping Co  
Ltd and Zhejiang Fuchuen Co  
Ltd,

Defendants.

X

**Declarations of Lawrence Yeung in support of  
Defendants' motions to vacate maritime attachment**

Lawrence Yeung declares under the penalty of perjury of the laws of the United States of America as follows:

1. I am the Deputy General Manager of Fuchuen Dihai Shipping Co Ltd of Tortilla Road, British Virgin Islands (hereafter "FDBVI") and I make this declaration based on my own personal knowledge. I shall refer to various exhibits in this declaration which I have taken from my files. As their person responsible for the negotiations on this fixture with Transfield ER Cape Limited (hereafter "Transfield") I have detailed knowledge of the fixture.
2. I am 52 years of age and born and resident in Hong Kong. I have a reasonable command of English both written and spoken although my first language is Cantonese.
3. I have over 17 years of chartering experience of both bulk cargo and tankers, having started my career with Cosco Hong Kong Chartering Department.
4. I joined FDBVI on 1<sup>st</sup> April 2003 and work as the Deputy General Manager reporting to the General Manager Xu Yongtao. I physically work within the offices of Zhejiang Fuchuen Co Ltd (hereafter "ZF") together with five other colleagues working for FDBVI although we initially only started with three people.

5. We are an independent company and although we physically utilize a very small part of ZF's substantial office space (under 5%) we all have our own private email addresses and telephone numbers which are not shared by anybody outside our company.
6. I am aware of an allegation that we are somehow controlled or dominated by ZF but this is incorrect. Although we have business together and we use a tiny part of their spare office space because of the very high office rent in Hong Kong, as I will demonstrate below, we make a good profit from ZF and deal with them in the same way as our other customers. Furthermore, we have separate managers, directors and staff and cannot access their computer network. We have our own bank accounts and they do not participate in our management decisions. With regard to Transfield, I have known them for several years from when I used to work in Cosco Hong Kong and in particular Mr Frances Young and Mr Newmen Lock with whom I negotiated the Alina Charter Party.
7. Just before I joined FDBVI in April 2003, I was asked to help them in a potential fixture with Transfield. Although I did not receive any payment, I was happy to help my new employer as they were a new company themselves and I knew Transfield.
8. Transfield were proposing a ship called Tian Tong Feng and after some negotiations with Mr Young of Transfield, completed the fixture on 28 March 2003 between Transfield Shipping Inc. and FDBVI. At that stage, I cannot definitely confirm that I told Mr Young that my new company was a BVI company but it was certainly not a Hong Kong registered company because the Hong Kong company Fuchuen Dihai Shipping Company Limited (hereafter "FDHK") was only formed sometime in 2004. FDHK is a separate company which although having a very similar name, did not do chartering business and neither myself or my colleagues work for them. In contrast, the market know our company quite well and I show a copy of an email from one of our customers, Swiss Marine, confirming this shown as Exhibit 1A. I also attach as Exhibit 1B and 1C copies of charter parties with them.
9. I recall the Tian Tong Feng fixture quite well because I remember on my second day, I sent out a letter regarding the fixture on the wrong notepaper which belongs to ZF and I was firmly told that we had nothing to do with ZF and even though we were inside their office, I was told that I was working for FDBVI and no one else.

10. In any event, I attach a copy of that first charter party signed by both Transfield and FDBVI as Exhibit 2A. I should add that the chop appearing at the bottom of that charter party belongs to FDBVI. However, we deliberately used Chinese characters in our chop so that our business partners would know that we are run by Chinese people. I believe the chop or company seal of FDHK is different and round in shape. Furthermore, Transfield issued their freight invoice to FDBVI (Exhibit 2B) and the freight was paid from our Hong Kong bank account as indeed are all our freights. Transfield must know this.
11. Although there may have been some scope for Transfield to initially mistakenly believe that we were a Hong Kong company, it would be very rare for a chartering company to trade as a Hong Kong registered company because it would attract substantial tax when compared with a BVI company which is used quite often. The Plaintiffs themselves are a BVI company who like us operate from Hong Kong but do not trade as a Hong Kong company.
12. I fixed one or two ships a month in the early days but that has increased slowly as we built up our reputation. Most of our business involves back to back charter parties where for instance, our customer will buy a cargo FOB and then sell on a C&F basis, often to a Chinese importer. We will then be asked to find a vessel and fix her at the best rate possible whilst negotiating a higher rate with our own customer. Thus in the case of M.V. Alina, we paid 33.50 USD to Transfield but charged our customer in this case ZF, 35 USD per MT. A copy of the fixture note is shown as Exhibit 3A. Like any other company, we have to make a profit to pay for salaries and other overheads as otherwise we will all be out of a job.
13. Although we have had little dialogue since the previous fixture, I was asked by ZF to find a vessel for a cargo to be carried from UBU Brazil to China. As per usual, I contacted various operators directly including Transfield. They were looking to develop a long term relationship with us. As I said before, I knew their people quite well. They quoted a reasonable rate on the phone and as I knew them better than the other available operators, developed that particular fixture over several telephone conversations with Mr Newmen Lock and Mr Zhang of Transfield. I am confident that I would have told them that we were BVI company and I certainly did not create the impression that we were a Hong Kong company. In shipping, it is quite common to work in one country but be registered in another and few charterers operate as Hong Kong companies.

14. The telephone conversations led to their sending a recap email, a copy of which I attach as Exhibit 3B. That recap asked for our full style and domicile and in the unlikely event I had not told them already, would have done so at that stage given their enquiry. Certainly they did not ask the question again and in any event by that time we were fairly well established in what is a fairly small market and known as a BVI company. Had there been any doubt, they could easily have checked.
15. The fixture note itself named our company correctly and it should be noted that we have a different albeit similar name to FDHK. The difference being "Co" and "Ltd". I do not know why FDHK was created with a similar name as I was not involved with it.
16. I made one or two hand written comments on that recap and in particular, 95% of the freight as opposed to 100% would be payable first and the amount of the cargo to be loaded. A copy of my reply email highlighting three corrections is shown as Exhibit 3C.
17. I asked them to re-confirm and I received their reply at 12:58 pm on 27 November 2003 confirming a clean fixture.
18. They asked me for my proforma which I sent short time later. A copy of that proforma showing our full title as Fuchuen Dihai Shipping Co Ltd is shown together with our company chop as Exhibit 3D.
19. I should add that the agreed freight rate with Transfield was higher than the prevailing market rate by about 3 USD per tonne because they were willing to accept the risk of a slow discharge by accepting Customary Quick Despatch terms (CQD). They confirmed at 1633 hours on the same day that the proforma was in order and the subsequent charter party reflected my three changes.
20. This proforma allowed Transfield to nominate a ship.
21. On 10 December 2003, Transfield nominated Alina for the particular fixture and we passed the ships' details to ZF, our customer who would have passed it to their Brazilian shippers who I believe were Samarco. Once ZF accepted the nomination, I was in a position to accept and I sent

an email to that effect at 1102 hours on 11 December 2003. a copy of this email is shown as Exhibit 4.

22. This email again stated the name of our company "Fuchuen Dihai Shipping Co Ltd".
23. Transfield subsequently advised that their ship has been delayed due to bad weather and requested us to extend the cancellation date. Although we were under no obligation, we did so with the agreement of our customers. Even then, Transfield missed the new cancellation date by several days. At that time, we would have been entitled to cancel the contract and claim substantial damages. Furthermore, we did not demand any compensation. Copies of their emails of 22 December 2003 and our reply of 23 December 2003 are shown as Exhibit 5. In fact, the ship arrived at the load port on 1 February 2004 which was about 10 days late. Subsequently, we received a freight invoice from Transfield again addressed to Fuchuen Dihai Shipping Co Ltd dated 4 February 2004. A copy of that invoice is shown as Exhibit 6.
24. 95% of the freight amounting to USD 5, 584, 237.27 was debited from our account and a copy of our TT is shown as Exhibit 7.
25. The balance of the freight amounting to USD 284,192.56 was paid by our customer ZF directly to Transfield on 18 May 2004. At the time, we have received various calls from them and emails prior to the scheduled payment date of 8 May 2004 for payment and because they were apparently have cash flow problems.
26. I received one original of the Charter Party (possibly two copies) from Transfield, I believe in the post in December 2003. As a matter of routine, I checked this document but it described my company as a Hong Kong company. I tippexed out the words "Hong Kong" and manually typed BVI before having it signed and returning it to Transfield. It has been suggested that I did this for some unexplained reason but I could not accept that we were described as a Hong Kong company when we were not. I simply do not know why only Transfield insisted or referred to us as a Hong Kong company. I am quite confident that Transfield do not have a copy of a charter party with our signature showing us to be a Hong Kong company but suspect they must have their own reasons for saying this. However, they must know we are BVI company and if there is any doubt, I attach my email to the brokers on that fixture saying exactly this which I sent when we fixed our most recent charter party with them after the Alina settlement shown as Exhibit 8.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 23 July 2007 in Hong Kong

Name: Lawrence Yeung

Signature: 

**Declaration of Lawrence Yeung in  
Support of Defendants' Motion  
to Vacate Maritime Attachment**

**Exhibit 1A**

Lawrence Yeung

寄件者: Peter Weemink [peter.weemink@swissmarine.ch]

寄件日期: Monday, July 23, 2007 17:57

收件者: 'Lawrence Yeung'

主题: contractual relationship

Exhibit 1A

To Fuchuen Dihai Shipping Co Ltd

Attn: Lawrence Yeung

We wish to confirm that we have had many charterparties with you over many years including m.v. lolcos Ability charter dated Lausanne 15 April 2003 and m.v. Arabella (or substitute) fixture dated Lausanne 21 June 2006. This is confirmed by your company stamp appearing at the bottom of the charter party (1<sup>st</sup> pages attached). We do not charter with Fuchuen Dihai Shipping Company Limited which we understand is Hong Kong company.

best regards

Peter Weemink

Managing Director

SwissMarine

23/7/2007



**Declaration of Lawrence Yeung in  
Support of Defendants' Motion  
to Vacate Maritime Attachment**

**Exhibit 1B**

Adopted by  
 the Documentary Committee of the General  
 Council of British Shipping, London  
 and the Documentary Committee of The Japan  
 Shipping Exchange, Inc., Tokyo

1. Shipbroker <b>Messrs.</b> <b>Ijchor S.A.</b> <b>Place Pépinet 1</b> <b>1003 Lausanne / Switzerland</b>		RECOMMENDED THE BALTIC AND INTERNATIONAL MARITIME COUNCIL UNIFORM GENERAL CHARTER PARTY INCLUDING "F.I.O." ALTERATION (To be used for trades for which the approved form is in force) CODE NAME: "GENCON" Part I	
3. Owners/Place of business (Cl. 1) <b>Messrs.</b> <b>Swissmarine Services S.A.</b> <b>Carouge - Geneva</b>		4. Charterers/Place of business (Cl. 1) <b>Messrs.</b> <b>Fuchuen Dihal Shipping Co. Ltd.</b> Exhibit 1B	
5. Vessel's name (Cl. 1) <b>"ARABELLA" OR SUBSTITUTE - see Clause 36</b>		8. GRT/NRT (Cl. 1) —	
7. Deadweight cargo carrying capacity in tons (abt.) (Cl. 1)		9. Present position (Cl. 1)	
9. Expected ready to load (abt.) (Cl. 1) <b>See Clause 34 -</b>		11. Discharging port or place (Cl. 1) <b>one safe port, one / two safe berth(s) Zhoushan plus one safe port, one / two safe berth(s) Qingzhou.</b>	
10. Loading port or place (Cl. 1) <b>one safe port, one safe berth Huanco, CHILE -</b>		12. Cargo (also state quantity and margin in Owners' option, if agreed; if full and complete cargo, not agreed state "part cargo") (Cl. 1) <b>72,000 metric tons - 10 % more or less in Owners' option with iron ore in bulk DRI / DRIP to be always accepted.</b> <b>Cargo to be loaded, transported and discharged in accordance with IMO Recommendations.</b> <b>Owners are to fully satisfy themselves with load and discharge port restrictions.</b>	
13. Freight rate (also state if payable on delivered or intaken quantity) (Cl. 4) <b>U.S.\$ 26,00 per metric ton F.I.O.T. basis 1 - 2</b>		15. Freight payment (state currency and method of payment; also beneficiary and bank account) (Cl. 4) <b>See Clause 20 -</b>	
16. Loading and discharging costs (state alternative (a) or (b) of Cl. 16; also indicate if the vessel is gearless) <b>F.I.O.T.</b>		16. Laytime (if separate laytime for load. and disch. is agreed, fill in a) and b). If total laytime for load. and disch., fill in c) only) (Cl. 6) a) Laytime for loading <b>See Clause 22 -</b> b) Laytime for discharging <b>See Clause 23 -</b> c) Total laytime for loading and discharging <b>See Clauses 22 and 23 -</b>	
17. Shippers (state name and address) (Cl. 6) <b>To be advised -</b>		18. Demurrage rate (loading and discharging) (Cl. 7) <b>See Clause 32 -</b>	
18. Demurrage rate (loading and discharging) (Cl. 7) <b>See Clause 32 -</b>		19. Cancellation date (Cl. 10) <b>See Clause 38 -</b>	
20. Brokerage commission and to whom payable (Cl. 14) <b>1.25% brokerage commission to Ijchor Capes S.A. Lausanne plus 1.25% brokerage commission to Goodwin, on freight, deadfreight and demurrage;</b>		21. Additional clauses covering special provisions, if agreed. <b>Additional Clauses No. 30 to No. 55, inclusive as attached to be part of this Charter-Party.</b>	

It is mutually agreed that this Contract shall be performed subject to the conditions contained in this Charter which shall include Part I as well as Part II. In the event of a conflict of conditions, the provisions of Part I shall prevail over those of Part II to the extent of such conflict.

Signature (Owner) <b>SWISSMARINE SERVICES</b> <b>30 AVENUE CARDINAL MERMIER</b> <b>1217 CAROUGE</b> <b>GENEVE - SWITZERLAND</b>	Signature (Charterer) For and on behalf of <b>Fuchuen Dihal Shipping Co., Ltd.</b> <b>(香港中遠船務有限公司)</b>
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**Declaration of Lawrence Yeung in  
Support of Defendants' Motion  
to Vacate Maritime Attachment**

**Exhibit 1C**

Adopted by  
the Documentary Committee of the General  
Council of British Shipping, London  
and the Documentary Committee of The Japan  
Shipping Exchange, Inc., Tokyo

1. Shipbroker <b>Messrs. Ifcher S.A.</b> <i>Place Piplnet 1</i> <i>1003 Lausanne / Switzerland</i>		RECOMMENDED THE BALTIC AND INTERNATIONAL MARITIME CONFERENCE UNIFORM GENERAL CHARTER (AS REVISED 1922 and 1976) INCLUDING "F.I.O." ALTERNATIVE, ETC. (To be used for trades for which no approved form is in force) CODE NAME: "GENCON" Part I	
2. Place and date <i>Lausanne, 15th April, 2003</i>		3. Owners/Place of business (Cl. 1) <b>Messrs. SwissMarine Services S.A.</b> <i>Carouge Geneva</i>	
4. Charterers/Place of business (Cl. 1) <b>Messrs. Fuchuen Dihal Shipping Co. Ltd.</b>		5. Vessel's name (Cl. 1) <b>M/V "IOCCOS ABILITY" as per Clause 36</b>	
6. GRT/NRT (Cl. 1) ---		7. Deadweight cargo carrying capacity in tons (abt.) (Cl. 1) <b>137.074 metric tons</b>	
8. Present position (Cl. 1) <b>Vessel's E.T.A. 20th May 2003 at load port all going well, weather permitting, unforeseen circumstances excepted -</b>		9. Expected ready to load (abt.) (Cl. 1) <b>See Clause 38 -</b>	
10. Loading port or place (Cl. 1) <b>one / two safe berth(s) each 2 safe ports Guayaquil plus Huasco, Chile</b>		11. Discharging port or place (Cl. 1) <b>one / two safe berth(s) one safe port Beilun, People's Republic of China</b>	
12. Cargo (also state quantity and margin in Owners' option, if agreed; if full and complete cargo not agreed state "part cargo") (Cl. 1) <b>140,000 metric tons - 10 % more or less in Owners' account - Iron Ore and/or Iron Ore Pellets and/or Iron Ore Concentrates in bulk. Max two grades in Charterers' option. DRI/DRIIP to be always excepted. Cargo to be loaded, transported and discharged in accordance with IMO Recommendations. Owners are to fully satisfy themselves with load and discharge port restrictions.</b>			
13. Freight rate (also state if payable on delivered or intaken quantity) (Cl. 1) <b>U.S.\$ 16.25 per metric ton basis 2 / 1 -</b>		14. Freight payment (state currency and method of payment; also beneficiary and bank account) (Cl. 4) <b>See Clause 20 -</b>	
15. Loading and discharging costs (state alternative (a) or (b) of Cl. 5; also indicate if the vessel is gearless) <b>F.I.O.S.T.</b>		16. Laytime (if separate laytime for load. and disch. is agreed, fill in a) and b). If total laytime for load. and disch., fill in c) only) (Cl. 6) a) Laytime for loading <b>See Clause 22 -</b> b) Laytime for discharging <b>See Clause 23 -</b> c) Total laytime for loading and discharging <b>See Clause 22 and 23 -</b>	
17. Shippers (state name and address) (Cl. 8) <b>To be advised -</b>		18. Demurrage rate (loading and discharging) (Cl. 7) <b>See Clause 32 -</b>	
19. Cancellation date (Cl. 10) <b>See Clause 38 -</b>		20. Brokerage commission and to whom payable (Cl. 14)	
21. Additional clauses covering special provisions, if agreed. <b>Additional Clauses 28 to 54, inclusive as attached to be part of this Charter-Party.</b>			

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Council (BIMCO), Copenhagen

It is mutually agreed that this Contract shall be performed subject to the conditions contained in this Charter which shall include Part I as well as Part II. In the event of a conflict of conditions, the provisions of Part I shall prevail over those of Part II to the extent of such conflict.

Signature (Owners) <b>SWISSMARINE SERVICES S.A.</b> <b>36 AVENUE CARDINAL MERCILOD</b> <b>1227 CAROUGE</b>	Signature (Charterers) <b>Fuchuen Dihal Shipping Co., Ltd.</b> (富海船務有限公司)
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**Declaration of Lawrence Yeung in  
Support of Defendants' Motion  
to Vacate Maritime Attachment**

**Exhibit 2A**

Adapted by  
the Documentary Committee of the General  
Council of British Shipping, London  
and the Documentary Committee of The Japan  
Shipping Exchange, Inc., Tokyo

1. Shipbroker <b>1st Original</b>		UNIFORM GENERAL CHARTER (AS REVISED 1994 and 1997) +852 2521 3888 P.09/20 INCLUDING "F.I.O." ALTERNATIVE, ETC. (To be used for trades for which no approved form is in force) CODE NAME: "GENCON" Part I	
2. Place and date <b>28th March 2003</b>		3. Owners/Place of business (Cl. 1) <b>Transfield Shipping Inc. Panama</b>	
4. Charterers/Place of business (Cl. 1) <b>Exhibit 2A</b> <b>Fuchuen Dihai Shipping Co., Ltd.</b>		5. Vessel's name (Cl. 1) <b>M.V. "Tian Tong Feng" or substitute</b>	
6. GRT/NRT (Cl. 1) <b>See Clause 18</b>		7. Deadweight cargo carrying capacity in tons (abt.) (Cl. 1) <b>See Clause 18</b>	
8. Present position (Cl. 1) <b>Trading</b>		9. Expected ready to load (abt.) (Cl. 1) <b>18th April 2003</b>	
10. Loading port or place (Cl. 1) <b>1 or 2 safe berth(s), 1 safe port, Esperance, Australia</b>		11. Discharging port or place (Cl. 1) <b>1 or 2 safe berth(s), 1 safe port, Bellun, P.R. China.</b>	
12. Cargo (also state quantity and margin in Owners' option, if agreed; if full and complete cargo not agreed state "part cargo") (Cl. 1) <b>70,000 metric tons 10% more or less Owners' option Iron Ore in bulk, excluding DRI/DRIP/HBI.</b>			
13. Freight rate (also state if payable on delivered or intaken quantity) (Cl. 1) <b>USD9.70 per metric ton basis 1/1 on Bill of Lading cargo quantity</b>		14. Freight payment (state currency and method of payment; also beneficiary and bank account) (Cl. 4) <b>See Clause 28</b>	
15. Loading and discharging costs (state alternative (a) or (b) of Cl. 5; also indicate if vessel is gearless) <b>Free in out and spout trimmed</b>		16. Laytime (if separate laytime for load. and disch. is agreed, fill in a) and b); if total laytime for load. and disch., fill in c) only) (Cl. 6) a) Laytime for loading <b>See Clause 20 &amp; 21</b> b) Laytime for discharging <b>See Clause 22</b> c) Total laytime for loading and discharging	
17. Shippers (state name and address) (Cl. 6)		18. Demurrage rate (loading and discharging) (Cl. 7) <b>See Clause 20</b>	
19. Cancellation date (Cl. 10) <b>28th April 2003</b>		20. Brokerage commission and to whom payable (Cl. 14) <b>3.75 percent address commission</b>	
21. Additional clauses covering special provisions, if agreed. <b>Additional Clauses 18-38 inclusive as attached are to be incorporated in this Charter Party.</b>			

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Conference (BIMCO), Copenhagen

It is mutually agreed that this Contract shall be performed subject to the conditions contained in this Charter which shall include Part I as well as Part II. In the event of a conflict of conditions, the provisions of Part I shall prevail over those of Part II to the extent of such conflict.

Signature (Owners) <b>Transfield Shipping Inc.</b> <i>[Signature]</i>	Signature (Charterers) <b>Fuchuen Dihai Shipping Co., Ltd.</b> <i>[Signature]</i> Authorized Signature(s)
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**Declaration of Lawrence Yeung in  
Support of Defendants' Motion  
to Vacate Maritime Attachment**

**Exhibit 2B**

# **TRANSFIELD SHIPPING INC.**

c/o 1738, 17/F., Sun Hung Kai Centre, 30 Harbour Road, Wanchai, Hong Kong  
 Telephone: (852) 28270889 Facsimile: (852) 28270936



*Exhibit 2B*

Messrs: Fu Chuen Dhai Shipping Co. Ltd.

35/F, United Center

95, Queensway

Hong Kong

Attn: Mr. Lawrence Yeung

## **Freight Invoice**

Invoice Date: 9-May-03

Invoice No.: TSI-124/03

Vessel's Name: MV "Tian Tong Feng"	Loading Port: Esperance, Australia	Completed Loading Date: 8-May-03
Cargo: 72,811.000MT bulk Iron Ore	Discharging Port: Beilun, China	Completed Discharging Date:

### **Description:**

Being the freight payment of M.V. "Tian Tong Feng".

Cargo Quantity : 72,811.000 Metric Tons

Freight Rate : USD9.70PMT basis 1/1

72,811.000MT X USD9.70

Less: 3.75% Add Comm

: 5% Balance freight

USD

\$706,266.70

(\$26,485.00)

(\$35,313.34)

95% Freight in Owners Favour :

USD \$644,468.36

(Say United States Dollars Six Hundred Forty Four Thousand Four Hundred Sixty Eight and Cents Thirty Six Only.)

Remark: payment due date: - 19 May 2003

Please T/T remit same to :

Bank : The Hongkong and Shanghai Banking Corp. Ltd.,  
 Sun Hung Kai Centre Branch, Hong Kong

SWIFT CODE : HSBCHKHCHKH

In Favour of : Transfield Maritime Limited

USD A/C No. : HK499319226 -0001

Correspondent Bank :

HSBC Bank USA, New York

A/C NO. 000-0-4441-5

SWIFT CODE : MRMDUS33



**Declaration of Lawrence Yeung in  
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**Exhibit 3A**

Fixture Note

Exhibit 3A

Date: 28<sup>th</sup> Nov. 2003

*This fixture of charter is this day mutually confirmed between Zhejiang Fuchuan Co., Ltd., as Charterers and Fuchuan Dihal Shipping Co., Ltd. as Owners on the following terms and conditions:*

- (1) *Performing vessel: M.V. Alina, built 1986, Panamanian flag, dead weight 179,802 mts on 18.125m sw, LOA 290m, beam 46m, 9 holds, 9 hatches.*
- (2) *Position of vessel: ETA loading port Huasco on/around 24/Jan/2004 AGW, WP.*
- (3) *Description and quantity of cargo: 170,000mts 10% molao of iron ore in bulk.*
- (4) *Loading port(s): 1 safe berth, Ubu, Brasil.*
- (5) *Discharge port: 1 or 2 safe berth(s) Beilun, China.*
- (6) *Freight rate: USD35.00 pmt FI/ST BSS 1/1. 100% freight to be paid within 7 banking days of completion of loading. Freight deemed earned upon completion of loading, discountless and non-returnable, whether vessel and/or cargo lost or not lost.*
- (7) *Laycan: Jan 20/Feb 5, 2004*
- (8) *Loading rate: C.Q.D..*
- (9) *Discharge rate: C.Q.D..*
- (10) *Owners agent both ends.*

Owners:

Charterers:

For and on behalf of  
Fuchuan Dihal Shipping Co., Ltd.  
(富春迪海船务有限公司)

.....  
Authorized Signature(s)

For and on behalf of  
ZHEJIANG FUCHUAN COMPANY LIMITED  
(富春有限公司)

.....  
Authorized Signature

**Declaration of Lawrence Yeung in  
Support of Defendants' Motion  
to Vacate Maritime Attachment**

**Exhibit 3B**

Lawrence Yeung

寄件者: Transfield ER Cape Chartering & Marketing (capechrn@transfield-er.com)  
 寄件日期: Thursday, November 27, 2003 10:24  
 收件者: shipping@fuchuen.com  
 主题: UBU/BEILUN JAN 10-25 2004

Exhibit 3B

\*\*\*\*\*  
 From : Transfield ER Resources Ltd  
 As agents for Transfield ER Cape Ltd/Transfield Shipping Inc  
 Tel : (852) 2827-0889; 2511-7388  
 Fax : (852) 2587-9551/9952  
 Tlx : 87996 EARC HK  
 Cape Chartering <capechrn@transfield-er.com>  
 Cape Operation <capeops@transfield-er.com>  
 Please visit our Web-site: www.transfield-er.com  
 \*\*\*\*\*

f No.: NL27203/1014

LAWRENCE/NEWMEN

PLEASED TO RECAP MAIN-TERM FIXED:

- s/c fuchuen
- please adv full style/domicile
- transfield er cape limited tbn
- 180,000mt/10% moloo iron ore in bulk always excluding dri/drip cargo to be loaded/transported and discharged in accordance with imo recommendations max 2 grades allowed
- 1sb/1sp point ubu brazil
- 1-2 sb/ 1sp beilun
- laycan jan 10/25 2004
- scale load/12h tt usc atuc
- discharge cqd
- demurrage/despatch asper scale at loadport
- freight: us\$33.50 prmt 1-1 fisor
- 95 100% frt to be paid within 7 banking days after completion loading, sailing loadport, signing/releasing bs/l marked "frt payable asper cp".
- dem/desp at loadport to be settled together with freight payment
- frt deemed earned upon cargo loaded onboard. discountless and non-returnable. cargo and/or vessel lost or/lost
- port charges at disport to be for owners account no deduction of port disb
- owners agent at both ends *CHRS agt at loadport.*
- any taxes/dues on frt/vsl to be for owners account bends
- any taxes/dues/wharfage on cargo for chtrs account bends
- should the original bs/l is not available at disch port, owners agree to disch/release cargo against chtrs loi in owners pmt wording w/o bank endorsement.
- 3.75% add total
- sbj cp details chtrs executed proforma cp
- end

rgds

**Declaration of Lawrence Yeung in  
Support of Defendants' Motion  
to Vacate Maritime Attachment**

**Exhibit 3C**

Lawrence Yeung

寄件者: Transfield ER Cape Chartering & Marketing [capechtrg@transfield-er.com]  
寄件日期: Thursday, November 27, 2003 12:58  
收件者: Lawrence Yeung  
主旨: RE: UBU/BEILUN JAN 10-25 2004

lawrence/newmen

thanks your email below which owners pleased to confirm.  
we are now fixed with subject charter party details.  
please email proforma cp for review.

thanks

Exhibit 3C

From: Newmen Lock

"Lawrence Yeung" <shipping@fuchuen.com> on 2003/11/27 10:53:51 AM

To: "Transfield ER Cape Chartering & Marketing"  
<capechtrg@transfield-er.com>

cc:  
bcc:

Subject: RE: UBU/BEILUN JAN 10-25 2004  
Ref. No: 0311271056

To: Transfield HK  
Fm: Fuchuen Dihai Shipping Co Ltd

Newmen/Lawrence

Tks for recap. 3 discrepancies found:

1. cargo size to be: Minimum 170,000mts with 10% more in Owners option of iron ore in bulk (not grade only) 2. 95% freight to be paid w/ 7 banking days of completion of loading....balance 5% freight payable together with settlement of dem/ties, if any within 30 days of completion of discharge.
3. Charterers agent at loading port, Owners agent at discharge port

Pls reconfirm.

Reds

-----Original Message-----

From: Transfield ER Cape Chartering & Marketing [mailto:capechtrg@transfield-er.com]  
Sent: Thursday, November 27, 2003 10:24 AM  
To: shipping@fuchuen.com  
Subject: UBU/BEILUN JAN 10-25 2004

\*\*\*\*\*  
\*\*\*\*\*

**Declaration of Lawrence Yeung in  
Support of Defendants' Motion  
to Vacate Maritime Attachment**

**Exhibit 3D**

Lawrence Yeung

寄件者: Lawrence Yeung [shipping@fuchuen.com]

寄件日期: Thursday, November 27, 2003 14:14

收件者: 'capechng@transfield-cr.com'

主旨: Transfield tbn/fuchuen dihai

Exhibit 3D

TO: TRANSFIELD HK  
FM: FUCHUEN DIHAI SHIPPING CO LTD  
27/ NOV/03

NEWMEN/LAWRENCE

RE: TRANSFIELD TBN/FUCHUEN DIHAI UBU/BEILUN IRON ORE

ATTACHED PLS FIND CHRS PROFORMA C/P FOR YOUR PERUSAL. PLS ADVISE YOUR COMMENT, IF ANY.

TKS + RGDS

27/11/2003



**Declaration of Lawrence Yeung in  
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**Exhibit 4**

Lawrence Yeung

寄件者: Lawrence Yeung (shipping@fuchuen.com)  
寄件日期: Thursday, December 11, 2003 11:02  
收件者: 'capechtrg@transfield-ex.com'  
主题: FW: Hangzhou, Vessel Nomination

To: Transfield ER Resources Ltd  
From: Fuchuen Dihai Shipping Co Ltd

Nicholas/Lawrence

Re: Transfield tbn/fuchen dihai cp dd 28.11.03 - nomination of performing vsl

Tks Owners nomination which we are pleased to confirm acceptance as follows:

Vessel : MV Alina  
Layday : 10-25 Jan 2004  
ETA Ubu : 17/18 Jan 2004 AGW WP  
Cargo : 170,000 MT +/- 10% of PBF/HB (Basicity : 1.0)  
Estimate Intake : About 176000 MT

Kindly update val's itinerary with fresh eta UBU from time to time with thanks.

Rgds  
Lawrence Yeung Tel:(852)34051775 Fax:34051777 Mob:97512136

Exhibit 4

**Declaration of Lawrence Yeung in  
Support of Defendants' Motion  
to Vacate Maritime Attachment**

**Exhibit 5**

Lawrence Yeung

寄件者: Lawrence Yeung (shipping@fuchuen.com)  
寄件日期: Tuesday, December 23, 2003 9:42  
收件者: Transfield ER Cape Chartering & Marketing  
主题: RE: FW: Hangzhou, Vessel Nomination

To: Transfield Hkg  
From: Fuchuen Dihai Shipping Co Ltd

Nicholas/Lawrence

Re: Transfield TBN/Fuchuen Dihai cp dd 28.11.03

Tks for your email Ref No.: NZ22203-1736.

Chris hereby confirm that LAYCAN can be extended to Jan 20/Feb 5 2004 as requested.

Is update vsl's itinerary for our guidance.

rgds

-----Original Message-----

From: Transfield ER Cape Chartering & Marketing (mailto:capechtrg@transfield-er.com)  
Sent: Monday, December 22, 2003 5:40 PM  
To: Lawrence Yeung  
Subject: Re: FW: Hangzhou, Vessel Nomination

\*\*\*\*\*  
From: Transfield ER Resources Ltd  
As agents for Transfield ER Cape Ltd/Transfield Shipping Inc  
Tel : (852) 2827-0889; 2511-7388  
Fax : (852) 2587-9551/9952  
Tlx : 87996 EARIC HX  
Cape Chartering <capechtrg@transfield-er.com>  
Cape Operation <capeops@transfield-er.com>  
Please visit our Web-site: www.transfield-er.com  
\*\*\*\*\*

Ref No.: NZ22203-1736

TO: FUCHUEN DIHAI  
ATTN: MR. LAWRENCE YEUNG  
FM: TRANSFIELD HKG

RE: MV'ALINA/FUCHUEN DIHAI

LAWRENCE/NICHOLAS

KINDLY PLS NOTE AS PER AGENT IN VSL'S LAST DISCHARGING PORT THAT CONGESTION IN ROTTERDAM WILL NOT BE IMPROVED IN THE EARLY/MID JAN. IN VIEW OF POSSIBLE FURTHER DELAY AT DISCHARGING PORT ROTTERDAM, OWNERS HERE ASK FOR CHTRS KIND CONSENT FOR EXTENDING LAYCAN TO 20/JAN-5/FEB,2003.

PLS ADVISE

TKS/B.RGDS,

Exhibit 5

Lawrence Yeung

寄件者: Transfield ER Cape Chartering & Marketing [capechtg@transfield-er.com]  
寄件日期: Monday, December 22, 2003 17:40  
收件者: Lawrence Yeung  
主旨: Re: FW: Hangzhou, Vessel Nomination

\*\*\*\*\*

From: Transfield ER Resources Ltd  
As agents for Transfield ER Cape Ltd/Transfield Shipping Inc  
Tel : (852) 2827-0889; 2511-7388  
Fax : (852) 2587-9551/9952  
Tlx : 87996 EARIC HX  
Cape Chartering <capechtg@transfield-er.com>  
Cape Operation <capeops@transfield-er.com>  
Please visit our Web-site: www.transfield-er.com  
\*\*\*\*\*

Exhibit 5

Ref No.: NZ22203-1736

TO: FUCHUEN DIHAI  
ATTN: MR. LAWRENCE YEUNG  
FM: TRANSFIELD HKG

RE: MVALINA/FUCHUEN DIHAI

LAWRENCE/NICHOLAS

KINDLY PLS NOTE AS PER AGENT IN VSL'S LAST DISCHARGING PORT THAT CONGESTION IN ROTTERDAM WILL NOT BE IMPROVED IN THE EARLY/MID JAN. IN VIEW OF POSSIBLE FURTHER DELAY AT DISCHARGING PORT ROTTERDAM, OWNERS HERE ASK FOR CHTRS KIND CONSENT FOR EXTENDING LAYCAN TO 20JAN-5FEB,2003.

PLS ADVISE

10-25 Jan

TKS/B.RGDS,

<FONT size=2>PCCW IMS Virus Control Center, powered by Trend Micro, scans all your attachment for known viruses. Click to learn more about  
<A HREF="http://www.biz.netvigator.com">our Secure Broadband Services</A> and <A  
.REF="http://www.biz.netvigator.com/terms/terms\_of\_use.htm">terms of use.</A></FONT> <IMG  
SRC="http://www.biz.netvigator.com/images/logo5.jpg">

**Declaration of Lawrence Yeung in  
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**Exhibit 6**

**TRANSFIELD ER GROUP**  
昌運東富**Transfield ER Cape Ltd.**c/o Rm 1738 Sun Hung Kai Centre,  
30 Harbour Rd, Wanchai, Hong Kong.  
Tel: (852) 2827 0889 Fax: (852) 2827 0936  
Email: ops@transfield-er.comMessrs: Fa Chuen Dihai Shipping Co. Ltd.

Attn:

*Exhibit 6***Freight Invoice**Invoice Date: 4-Feb-04Invoice No.: TER-135/03

<b>Vessel's Name:</b> MV "Alina"	<b>Loading Port:</b> Point UBU, Brazil	<b>Completed Loading Date:</b> 4-Feb-04
<b>Cargo:</b> 175,467.000MT bulk Iron Ore	<b>Discharging Port:</b> Beilun, China	<b>Completed Discharging Date:</b>

**Description:**

Being the freight payment of M.V. "Alina"

Cargo Quantity : 175,467.000 Metric Tons

Freight Rate : USD33.50PMT float bss 1/1

175,467.000MT X USD33.50

Less : 5% Balance freight

USD

\$5,878,144.50

(\$293,907.23)

95% Freight in Owners Favour :

USD \$5,584,237.27

(Say United States Dollars Five Million Five Hundred Eighty Four Thousand Two Hundred Thirty Seven And Cents Twenty Seven Only.)

Please T/T remit same to :

Bank : The Hongkong and Shanghai Banking Corp. Ltd.,  
Sun Hung Kai Centre Branch, Hong Kong

SWIFT CODE : HSBCHKHHHKH

In Favour of : Transfield ER Cape LimitedUSD A/C No. : HK499397255 - 0001

Correspondent Bank :

HSBC Bank USA, New York

A/C NO. 000-0-4441-5

SWIFT CODE : MRMDUS33

KODAK SAFETY FILM

**Declaration of Lawrence Yeung in  
Support of Defendants' Motion  
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**Exhibit 7**



客戶留底

CUSTOMER COPY

(此通知書所列匯款以收款銀行收妥及通知作實)

(The Remittance set out in this advice is subject to the ACTUAL RECEIPT and ADVICE of the Beneficiary's Banker)

Exhibit 7

客戶指示 (請以英文正楷填寫) CUSTOMER'S INSTRUCTIONS (PLS. COMPLETE IN BLOCK LETTERS)		日期 DATE: 2 FEB 2004
指定匯款銀行的代理行名稱【若有的話】【只供申請美元 CHATS 撥款填寫】 DESIGNATED INTERMEDIARY OF THE RECEIVING BANK [If any] [USD Chats remittance application only]		代理行銀行編號 BANK CODE:
收款銀行名稱 NAME OF RECEIVING BANK: HSBC SUN HUNG KAI CENTRE BRANCH, HONG KONG		收款銀行編號 BANK CODE: 004
收款人姓名 NAME OF BENEFICIARY: TRANSCHEM (HONG KONG) LTD		收款人賬號/AID 號 A/C NO. /AID OF BENEFICIARY: HK499397255 - 0001
		金額 AMOUNT: USD5,584,237.27
詳情(如有) PAYMENT DETAILS (IF ANY): (140 個字符/140 CHARACTERS)		
申請人/申請公司之名稱 NAME OF APPLICANT(S): FUCHUEN DIHAI SHIPPING CO LTD		
付款方式 / PAYMENT METHOD:		
<input checked="" type="checkbox"/> 請扣本人(等) 賬戶 / PLEASE DEBIT MY/OUR ACCOUNT NO. 01288492089533		
(如屬多種外幣存款賬戶, 請指示所扣除的貨幣, 請在下列欄位填寫 A/C, please indicate the currency to be debited)		
<input type="checkbox"/> 請從上述款項中扣除銀行手續費 / FOR BANK HANDLING CHARGES, PLEASE DEDUCT FROM THE ABOVE AMOUNT		
<input type="checkbox"/> 請從 _____ 賬戶中扣除銀行手續費 / FOR BANK HANDLING CHARGES, PLEASE DEBIT FROM ACCOUNT		
<input type="checkbox"/> 其他 OTHERS		
此欄由銀行填寫 FOR BANK USE ONLY		
CHATS REF. : 00000068879 CCY/AMT : USD5,584,237.27 BY ORDER A/C : 012-884-9-208953-3 A/C NAME : FUCHUEN DIHAI SHIPPING CO LTD BANK CHARGES : USD20.00(TRF) WITHDRAW AMOUNT : USD5,584,257.27		銀行手續費 BANK HANDLING CHARGES:
A00000068879 11:54:17 2004/02/09 27108A 023 41219 09610		備註 REMARKS:

此留底蓋有本行銀印, 即為有效, 無須簽名。  
THIS COPY IS VALID ONLY WITH BANK VALIDATION,  
NO SIGNATURE REQUIRED.

**Declaration of Lawrence Yeung in  
Support of Defendants' Motion  
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**Exhibit 8**

Lawrence Yeung

寄件者: Goodwin [gowin@hkstar.com]  
寄件日期: Monday, July 23, 2007 14:53  
收件者: Lawrence Yeung  
主题: Re: Lowlands Sumida - Fuchuen - 05.10.06

LAWRENCE / KWONG

RESEND

QTE

Exhibit 8

----- Original Message -----

From: "Lawrence Yeung" <shipping@fuchuen.com>  
To: "GOWIN" <gowin@hkstar.com>  
Sent: Thursday, October 26, 2006 10:07 AM  
Subject: RE: Lowlands Sumida - Fuchuen - 05.10.06

&gt; Kwong / Lawrence

&gt;

> Working c/p checked and is found ok except the front page and the side  
> letter where the registration place of charterer is B.V.I. instead of  
> Hong Kong.

&gt;

&gt; Please amend it accordingly.

&gt;

&gt; Rgd

&gt;

&gt; -----Original Message-----

> From: GOWIN [mailto:gowin@hkstar.com]  
> Sent: Thursday, October 26, 2006 12:19 AM  
> To: FUCHUEN DIHAI SHIPPING CO LTD  
> Subject: Lowlands Sumida - Fuchuen - 05.10.06

&gt;

&gt;

&gt; LAWRENCE / KWONG

&gt;

&gt;

&gt;

&gt;

&gt;&gt; Re: M/V Lowlands Sumida - Fuchuen - 05.10.06

&gt;&gt;

>> Please find attached the working copy of the above Charter Party,  
> which we

&gt;&gt; trust have been drawn up in accordance with the recap.

&gt;&gt;

>> Please confirm by return your agreement with same, in order to enable  
> us

&gt;&gt; to draw up the original Charter Party, and submit same for signature.

&gt;&gt;

&gt;&gt; Best Regards

&gt;

&gt;

> <PONT size=2>PCCW LMS Virus Control Center, powered by Trend Micro,  
> scans all your attachment for known viruses. </A></FONT><table>

&gt;

&gt;

&gt;